

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:05-CR-104
)	(JARVIS/SHIRLEY)
DAVID MARIUS GUARDINO,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. The parties appeared before the undersigned on October 6, 2005, for a hearing on defense counsel's Motion to Withdraw as Counsel [Doc. 9] filed on September 29, 2005. Attorney Michael S. Shipwash was present for the defendant, who was also present. Assistant United States Attorney Charles Atchley, Jr., appeared on behalf of the government.

In his motion, Attorney Shipwash contends that at the time the defendant retained him, he explained to the defendant that he had never defended a criminal case. He said that the defendant assured him that Attorney Alvin Brown from Washington, D.C., was going to associate Mr. Shipwash in the defendant's defense. Mr. Shipwash states that on September 27, 2005, he learned that Mr. Brown was not going to associate him. Accordingly, he sought to withdraw from the case. At the October 6 hearing, the defendant said that he had no objection to

Mr. Shipwash withdrawing.

Because Mr. Shipwash has acknowledged that he is not able to provide effective representation in this case, the Court finds that good cause exists to grant defense counsel's Motion to Withdraw as Counsel [**Doc. 9**], the same is **GRANTED**, and Mr. Shipwash is relieved as counsel for the defendant. See *Wilson v. Mintzes*, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause). The Court will address the issue of the defendant's new counsel by separate order.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge